

SECTION 5. Sections 125.002(a), (g), and (h), Civil Practice and Remedies Code, are amended to read as follows:

(a) A suit to enjoin and abate a common nuisance *described by Section 125.0015(a) or (b)* may be brought by an individual, by the attorney general, or by a district, county, or city attorney. The suit must be brought in the county in which it is alleged to exist against the person who is maintaining or about to maintain the nuisance. The suit must be brought in the name of the state if brought by the attorney general or a district or county attorney, in the name of the city if brought by a city attorney, or in the name of the individual if brought by a private citizen. Verification of the petition or proof of personal injury by the acts complained of need not be shown. For purposes of this subsection, personal injury may include economic or monetary loss.

(g) In an action brought under this chapter, *other than an action brought under Section 125.0025*, the petitioner may file a notice of lis pendens and a certified copy of an order of the court in the office of the county clerk in each county in which the land is located. The notice of lis pendens must conform to the requirements of Section 12.007, Property Code, and constitutes notice as provided by Section 13.004, Property Code. A certified copy of an order of the court filed in the office of the county clerk constitutes notice of the terms of the order and is binding on subsequent purchasers and lienholders.

(h) A person who may bring a suit under *Subsection (a)* [~~Section 125.0015~~] shall consider, among other factors, whether the property owner, the owner's authorized representative, or the operator or occupant of the business, dwelling, or other place where the criminal acts occurred:

(1) promptly notifies the appropriate governmental entity or the entity's law enforcement agency of the occurrence of criminal acts on the property; and

(2) cooperates with the governmental entity's law enforcement investigation of criminal acts occurring at the property.

SECTION 6. This Act takes effect September 1, 2017.

Passed the Senate on April 19, 2017: Yeas 30, Nays 1; passed the House on May 22, 2017: Yeas 145, Nays 1, one present not voting.

Approved June 9, 2017.

Effective September 1, 2017.

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## **PURCHASE OF IRON AND STEEL PRODUCTS MADE IN THE UNITED STATES FOR CERTAIN GOVERNMENTAL ENTITY PROJECTS**

### **CHAPTER 597**

S.B. No. 1289

#### **AN ACT**

**relating to the purchase of iron and steel products made in the United States for certain governmental entity projects.**

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 2252, Government Code, is amended by adding Subchapter F to read as follows:

#### **SUBCHAPTER F. CERTAIN CONSTRUCTION AND INSTALLATION PROJECTS**

**Sec. 2252.201. DEFINITIONS.** *In this subchapter:*

(1) "Governmental entity" means this state or a board, commission, department, office, or other agency in the executive branch of state government. The term does not include a political subdivision.

(2) “Manufacturing process” means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product that is functionally different from a finished product produced merely from assembling the materials or elements into a product.

(3) “Political subdivision” includes a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water district.

(4) “Produced in the United States” means, with respect to iron and steel products, a product for which all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

(5) “Project” means a contract between a governmental entity and another person, including a political subdivision, to:

(A) construct, remodel, or alter a building, a structure, or infrastructure;

(B) supply a material for a project described by Paragraph (A); or

(C) finance, refinance, or provide money from funds administered by a governmental entity for a project described by Paragraph (A).

Sec. 2252.202. **UNIFORM PURCHASING CONDITION; RULES.** (a) Except as provided by Section 2252.203, the uniform general conditions for a project in which iron or steel products will be used must require that the bid documents provided to all bidders and the contract include a requirement that any iron or steel product produced through a manufacturing process and used in the project be produced in the United States.

(b) A governmental entity subject to the requirements for a project described by Subsection (a) shall adopt rules to promote compliance with this section.

Sec. 2252.2025. **REPORT.** (a) Not later than December 1, 2018, the Texas Water Development Board shall electronically submit to the state auditor a report on all contracts for construction of a project that received financial assistance under Chapter 15, 16, or 17, Water Code, during the state fiscal year ending August 31, 2017. The report must include:

(1) the impacts on a political subdivision that has obtained or applied for financial assistance from the board under Chapter 15, 16, or 17, Water Code; and

(2) for each project that has obtained financial assistance as described by this subsection:

(A) the country of origin of the iron and steel products used in the project, in accordance with 19 U.S.C. Section 1304;

(B) the cost and quantity of all iron and steel products received from each country of origin for the project; and

(C) any related bond information, including the credit rating of general obligation bonds or revenue bonds issued by the board to finance or refinance projects included in the state water plan and the potential impact to that credit rating as a result of the bond issuance by the board.

(b) The state auditor shall prepare a summary on the report submitted under Subsection (a) and electronically submit the summary to the legislature not later than January 1, 2019.

(c) This section expires September 1, 2019.

Sec. 2252.203. **EXEMPTIONS.** (a) Section 2252.202 does not apply to a project for which the governing body of the governmental entity responsible for the project determines that:

(1) iron or steel products produced in the United States are not:

(A) produced in sufficient quantities;

(B) reasonably available; or

(C) of a satisfactory quality;

(2) use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent; or

(3) complying with that section is inconsistent with the public interest.

(b) Electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment are not considered to be iron or steel products and are exempt from the requirements of Section 2252.202. An electrical system includes all equipment, facilities, and assets owned by an electric utility, as that term is defined in Section 31.002, Utilities Code.

(c) Section 2252.202 does not apply to a contract subject to Section 223.045, Transportation Code, or 23 C.F.R. Section 635.410.

Sec. 2252.204. *INTERNATIONAL AGREEMENTS.* This subchapter shall be applied in a manner consistent with this state's obligations under any international agreement.

Sec. 2252.205. *CONFLICT OF LAW.* To the extent of any conflict or inconsistency, this subchapter prevails over any other state law relating to the use of iron and steel products in projects directly funded by a governmental entity or financed by funds administered by a governmental entity.

SECTION 2. Section 223.045, Transportation Code, is amended to read as follows:

Sec. 223.045. *IRON AND STEEL PREFERENCE PROVISIONS IN IMPROVEMENT CONTRACTS.* A contract awarded by the department for the improvement of the state highway system without federal aid must contain the same preference provisions for iron and steel and iron and steel products that are required under federal law for an improvement made with federal aid.

SECTION 3. Section 17.183(a), Water Code, is amended to read as follows:

(a) The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive administrator in accordance with the rules of

the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with approved plans and specifications;

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications;

(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible; and

(8) that the contract include a requirement that iron and steel products ~~and manufactured goods~~ used in the project be produced in the United States, unless:

(A) such products ~~or goods~~ are not:

- (i) available in sufficient quantities;
- (ii) readily available; or
- (iii) of a satisfactory quality; or

(B) the use of such products ~~or goods~~ will increase the total cost of the project by more than 20 percent.

SECTION 4. Section 17.183(c)(4), Water Code, is amended to read as follows:

(4) "Produced in the United States" means,[-

~~[(A)] in the case of iron and steel products, products for which all manufacturing processes, from initial melting through application of coatings, take place in the United States, except metallurgical processes that involve the refinement of steel additives[-; and~~

~~[(B) in the case of a manufactured good, a good for which:~~

~~[(i) all of the manufacturing process that produced the manufactured good takes place in the United States; and~~

~~[(ii) more than 60 percent of the components of the manufactured good, by cost, originate in the United States].~~

SECTION 5. Sections 17.183(c)(1) and (2) and (d), Water Code, are repealed.

SECTION 6. (a) Subchapter F, Chapter 2252, Government Code, as added by this Act, applies only to bid documents submitted or contracts entered into on or after the effective date of this Act.

(b) Subchapter F, Chapter 2252, Government Code, as added by this Act, does not apply to a project as described by Section 15.432 or 15.472, Water Code, that the Texas Water Development Board has formally approved for financial assistance. In this subsection, the term "formally approved" means any project that is the subject of a resolution approving an application for financial assistance adopted by the Texas Water Development Board before May 1, 2019, for any portion of the financing of the project.

SECTION 7. This Act takes effect September 1, 2017.

Passed the Senate on May 3, 2017: Yeas 23, Nays 7, one present not voting; May 17, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 19, 2017, House granted request of the Senate; May 27, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 23, Nays 7, one present not voting; passed the House, with amendments, on May 12, 2017: Yeas 109, Nays 33, one present not voting; May 19, 2017, House granted request of the Senate for appointment of Conference Committee; May 27, 2017, House adopted Conference Committee Report by the following vote: Yeas 102, Nays 33, one present not voting.

Approved June 9, 2017.

Effective September 1, 2017.